UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *11 March 2010*.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-12* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-12* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some *   c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

This final rejection is in response to Applicant's amendment and arguments filed on 3/11/2010. Applicant amends claims 1, 5, and 9. Claims 1-12 are presented for further examination.

I.   RESPONSE TO ARGUMENTS

Applicant amends the independent claims to clarify that the sets of data packets are provided by individual ones of said non-synchronous nodes and wherein individual ones of the plurality of non-synchronous compute nodes comprise individual sources of data packets. Applicant argues that because *Mann* teaches "deliver[ing] groups of packets into one unit identified by the session number and each session number corresponds to one node," *Mann* cannot teach aggregating a packet comprising packets from at least two different nodes.

The previous rejection acknowledged that *Mann* did not teach that feature and relied on *Turner* as a teaching to modify *Mann*. Applicant argues that this combination is not proper because "*Mann* is addressing the problems behind matching up one to one sessions." Applicant's argument is erroneously premised entirely on interpreting *Mann*'s invention as being directed only to classifying packets by session number.

Contrary to Applicant's argument, *Mann* is not limited to solving the particular problem of only grouping packets from a single session into an aggregate packet. While *Mann* does discuss that particular problem in the background section, *Mann*'s specification is directed to a solution that has a broader application that merely combining packets having the same session number.

Specifically, *Mann* is directed towards grouping using a classification criterion to classify

packets and grouping the packets having the same criterion into a packet bundle [abstract]. One

example of this criterion is a packet's session number [column 3 «lines 44-46»: "*for example*, the

classification-based packet transferring mechanism may classify 'received packets according to

their session numbers | column 4 «lines 53-59»: "To classify received packets according to, *for*

example, session numbers, the classification-based packet transferring mechanism 120…"].

Based on the foregoing sections, it would have been clear to one of ordinary skill in the

art that *Mann* was not limiting his classifications to merely session numbers. Thus, one of

ordinary skill in the art would have been able to apply other methods of classifying packets in

order to form a grouped packet bundle.

For example, *Turner* teaches another way of classifying incoming packets by their

timestamp [*Turner*, column 5 «lines 9-26»]. *Turner* further teaches that there are multiple

individual sources of the data packets and grouping these data packets from different sources into

an aggregate packet [Fig. 2A].

For the foregoing reasons, Applicant's amendment does not overcome the cited

references and Applicant's arguments are not persuasive. The rejections set forth in the previous

action are therefore maintained.

II.   CLAIM REJECTIONS - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the *Mann*er in which the invention was made.

A.   **Claims 1-12 are rejected under 35 U.S.C §103(a) as being unpatentable over *Mann* et al, U.S Patent NO. 6.957.281 ["*Mann*"], in view of *Turner* et al, U.S. Patent No. 6.907.041 ["*Turner*"].**

All citations in the following claim mapping are to *Mann* unless otherwise noted.

Claim 1

As to claim 1, *Mann* as modified by *Turner* discloses a method for collating data in a distributed computer network having non-synchronous compute nodes, said method comprising:

receiving a plurality of sets of data packets from a plurality of physically separated non synchronous compute nodes, wherein individual ones of said sets of data packets are provided individual ones of said non-synchronous compute nodes [Figure 1 «item 210» | column 1 «lines 45-60» | column 4 «lines 52-60» where : *Mann* discloses receiving packets of different sessions at the controller, each session representing communications with a different network node] and wherein individual ones of the plurality of non-synchronous compute nodes comprise individual sources of data packets [column 1 «lines 45-48»: plurality of network nodes accessing a network resource send data packets];

inserting said data packets into a software container according to predetermined rules for determining a logical order for said data packets [column 3 «lines 6-9 and 41-48» | column 4 «lines 30-51» | column 5 «lines 18-28» where : *Mann*'s queue is analogous to the claimed software container];

locating common groups of said data packets within said software container according to said predetermined rules [column 3 «lines 41-48» where : *Mann* discloses grouping packets

based on common session numbers | *Turner*, column 5 «lines 9-26» where : *Turner* discloses

merging packets based on *timestamp*];

protecting said software container against incomplete groups of said data packets

according to a grouping criteria [column 5 «lines 18-28» | column 6 «lines 39-46» where : *Mann*

discloses using sequence numbers to order the packets. Sequence numbers are well known in the

art to help determine whether there are missing packets within the sequence of packets of a

session]; and

outputting of said data packets in respective logical groups that represent an aggregate

packet from at least two of the non-synchronous compute nodes after said grouping criteria has

been met [column 3 «line 49» to column 4 «line 18» | *Turner*, Fig. 2A & column 5 «lines 9-26»

where : *Turner* discloses merging packets based on *timestamp* which means that the merged

packet contains packets from more than two of the nodes].

As indicated in the foregoing mapping, *Mann* does not disclose outputting said packets in

respective logical groups that represent an aggregate packet from at least two of the non-

synchronous compute nodes. However, such a feature was well known in the art at the time of

Applicant's invention as evidenced by *Turner*.

Turner discloses grouping packets based on timestamp and forming an aggregate packet

based on these grouped packets. *Turner* further discloses that the packets are from at least two of

the compute nodes in the network.

It would have been obvious to one of ordinary skill in the art to have modified *Mann*'s

system to include *Turner*'s timestamp grouping functionality. *Mann* discloses that his system

utilizes classification criterion to classify (i.e., group) received packets. *Turner* discloses using a

packet's timestamp as a classification criterion and utilizing this criterion results in an aggregate

packet from at least two of the nodes because the system looks at a packet's timestamps and not

session numbers. Such a modification would have improved *Mann*'s system because it would

allow grouping packets based on time order (i.e., merging of streams of time stamps) [*Turner*,

column 5 «lines 24-26].

Claims 2, 6, and 10

Mann does disclose inserting data packets into said software container but does not

expressly disclose performing said insertion according to individual packet time reference. In the

same field of invention, *Turner* is directed towards a communications network for resequencing

packets using a packet time reference, aka a timestamp [column 3 «lines 31-47»]. *Turner*

expressly discloses inserting said data packets into a software container according to individual

packet time reference [column 4 «line 65» to column 5 «line 7»].

It would have been obvious to one of ordinary skill in the art to incorporate

timestamps into *Mann*'s insertion functionality. Use of timestamps enables the ability to better

resequence packets into the correct order and to insure that they are transmitted in the correct

order to the next destination in the network.

As to claims 6 and 10, they merely are directed towards an apparatus and computer

program product on a medium, that implement the steps of the method of claim 2. Therefore,

claims 6 and 10 are rejected for at least the same reasons set forth for claim 2.

Claims 3, 7, and 11

Mann does disclose locating common groups of data packets within said software

container, but does not disclose doing so based on individual packet time reference. *Turner*

discloses locating common groups based on individual packet time reference [column 4 «lines 56-59» | column 5 «lines 9-26» where : *Turner*'s merging of different groups based on their time stamps is analogous to the claimed functionality].

It would have been obvious to one of ordinary skill in the art to have modified *Mann* to include the function of grouping packets based on packet time reference. *Turner* discloses that the ability to group based on time stamps benefits a system by enabling resequencing of a multiplicity of packets into a sorted order [column 4 «lines 56-59» | column 5 «lines 14-18»].

As to claims 7 and 11, they merely are directed towards an apparatus and computer program product on a medium, that implement the steps of the method of claim 3. Therefore, claims 7 and 11 are rejected for at least the same reasons set forth for claim 3.

Claims 4, 8, and 12

Mann discloses outputting logical group of said data packets in respective logical groups that represent time-synchronous packets from said non-synchronous compute nodes after said grouping criteria has been met [column 4 «lines 1-17 and 52-60» | column 5 «lines 18-28» | column 6 «lines 39-46» where : *Mann* discloses outputting a bundle of packets based on the packet's session number and sequence number within that particular session. *Mann*'s packets are therefore synchronous based on their sequence and session numbers].

As to claims 8 and 12, they merely are directed towards an apparatus and computer program product on a medium, that implement the steps of the method of claim 4. Therefore, claims 8 and 12 are rejected for at least the same reasons set forth for claim 4.

Claims 5 and 9

As to claims 5 and 9, they merely are directed towards an apparatus and computer

program product on a medium, respectively, that implement the steps of the method of claim 1.

Therefore, claims 5 and 9 are rejected for at least the same reasons set forth for claim 1.

III.   CONCLUSION

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-

3942. The examiner can normally be reached on Monday to Friday [10 am - 6 pm].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Thu Nguyen can be reached on (571)272-6967. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOHM CHANKONG/
Primary Examiner, Art Unit 2452